

REMARKS

This communication is in response to the Office Action dated April 22, 2005, and Applicants respectfully request reconsideration of this application in view of the present amendments and the following remarks. Upon entry of these amendment, claims 1, 3-5, 8-11, 13-17, and 19-23 remain pending and at issue with claims 1, 8 and 17 each being an independent claim. Independent claim 1 has been amended to incorporate certain corresponding features of independent claims 8 and 17, claim 13 has been amended to change its dependency, and claims 2 and 6 have been cancelled.

If any extension of time is required in connection with this communication, the Commissioner is authorized to charge the requisite fee to Deposit Account No. 13-2855.

Claims 1-4, 6, 8-10, 13, 14, 17, 19 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Naughton et al., U.S. Patent No. 5,950,911 in view of Keppler, U.S. Patent No. 1,909,473. Claims 5 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the art as applied to claims 1 and 8 above, and further in view of Barr et al., U.S. Patent No. 2,260,428. Claims 15 and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the art as applied to claims 8 and 17 above, and further in view of O'Neill, U.S. Patent No. 5,505,371. Claims 16 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the art as applied to claims 13 and 19 above, and further in view of Edgerton Jr. et al., U.S. Patent No. 5,372,299. Claim 23 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the art as applied to claim 17 above, and further in view of Ockey, U.S. Patent No. 3,955,671.

As will be appreciated, Applicants have amended independent claim 1 to incorporate certain corresponding features which are generally present in independent claims 8 and 17 but are nowhere disclosed or suggested in the prior art. These features include having a rearwardly inclined front wall and a rearwardly inclined rear wall as portions of an upwardly extending wall panel of a display box in combination with at least one separate insert position adjacent each of the side walls and having at least one divider parallel to the rearwardly inclined front and rear walls to define at least two separate rearwardly inclined product receiving compartments. Clearly, this combination of features is nowhere disclosed

or even remotely suggested in the combination of Naughton et al. and Keppler nor in any other combination of the prior art references of record.

In this connection, the Examiner relies primarily upon the Naughton et al. '911 patent and argues that it would have been obvious to modify Naughton et al. by employing the "inclining teaching" of the Keppler '473 patent in order to dispose the contents at an inclined angle. This modification is nowhere suggested by either of these references and, moreover, would render Naughton et al. inoperative for its intended purpose. In fact, if Naughton et al. was modified as suggested by the Examiner, it would not facilitate viewing the contents but, rather, would actually impair viewing them, i.e., the gallon containers for holding liquids or solids such as household cleaning products (column 1, lines 8-11).

Referring to the Naughton '911 patent, it purports to address the problems inherent in "H" shaped inserts used in packaging for heavy containers such as gallon jugs of household cleaning products. It notes that conventional "H" inserts add significant structural strength to such packaging so that the cartons or boxes can be stacked without damage and can safely undergo the rigors of shipping. (Column 1, lines 45-49). To eliminate the need for the typical "H" inserts, the Naughton et al. '911 patent proposes the use of "side support sections 12" having extensions 20 to provide sufficient strength and support for storing and displaying relatively heavy containers of liquid or solid product. (Column 3, lines 30-38).

To achieve the intended purpose of the invention, Naughton et al. provides a cover 30 having a top side 32 which defines a flat surface whereby the cover 30 fits over and snuggly nestles about the side support sections 12. The flat surface of the top side 32 of the cover 30 permits another carton or box containing relatively heavy containers of liquid or solid product to be placed on it to provide a stacked series of such cartons or boxes, each containing a plurality of relatively heavy containers. As a result, the side support sections 12 are essential structural components which include inwardly extending extensions 20 to ensure the requisite structural integrity to achieve these objectives. (Column 3, lines 53-58).

With the structure thus described, the Naughton et al. '911 patent provides a storage device (carton or box) which "provides structural integrity so that devices (cartons or boxes) filled with containers can be stored one on top of the other and provide a convenient

display as well as ready access to the containers to facilitate purchase by the consumer.” (Column 2, lines 3-7).

In marked contrast, the Keppler ‘473 patent has as a principal object to provide a novel form of box constructed from a single sheet of cardboard or the like adapted to contain articles of merchandise in a manner attractively and effectively displaying the merchandise when the box placed on a counter or other support. (Page 1, lines 1-7).

In the Keppler ‘473 patent, the merchandise itself is not specifically shown or described, but it is stated that the merchandise “may be in the form, as shown, of a plurality of small rectangular packages M adapted to be stacked on end in the box.” (Page 2, lines 99-102). Moreover, the Keppler display box does not require the use of an adhesive or mechanical means such as staples, eyelets, or the like to hold the various parts of the single sheet of cardboard or the like in a proper relation to each other for placement on a counter or other support.

From the foregoing, it is clear that the display box of the Keppler ‘473 patent is for counter or shelf display of small rectangular packages. There is, therefore, no reason whatsoever to incorporate “side support sections” such as sections 12 or “extensions” such as 20 of the Naughton et al. ‘911 patent because Keppler is not at all concerned with providing a box for “relatively heavy containers of liquid or solid product” in the form of gallon containers of household cleaning products. Furthermore, unlike the Naughton et al. ‘911 patent, Keppler would not consider “side support sections” such as sections 12 or “extensions” such as extensions 20 because Keppler is not at all concerned with providing cartons or boxes that can be stacked and stored one on top of the other while filled with heavy containers such as gallon jugs of household cleaning products. In other words, one skilled in the art of Keppler would reject out of hand the teachings of the Naughton et al. ‘911 patent.

Conversely, one skilled in the art of Naughton et al. would never consider inclining the walls 10, or the side support sections 12 and extensions 20. Doing so would require inclining the relatively heavy containers of liquid or solid product making them unstable in the cartons or boxes, and it would impair the ability of the consumer to view and

remove the containers from the cartons or boxes. Further, if Naughton et al. was modified in this manner it would significantly impair the structural integrity of the cartons or boxes.

The inclined "side support sections" 12 and "extensions" 20 of such a modified Naughton et al. structure would be able to support far less weight and, thus, it would also render it impractical to provide a stacked series of such cartons or boxes, each containing a plurality of relatively heavy containers.

For all of these reasons, there is simply no motivation or suggestion of combining Naughton et al. and Keppler or how this would be done except from hindsight reliance on the teachings of Applicants. In fact, this attempted combination of the Naughton et al. '911 patent and the Keppler '473 patent is not even proper since it would render Naughton et al. inoperative for its intended purpose. As a result, Applicants respectfully submit that amended independent claim 1 is patentably distinguishable over the Naughton et al. '911 patent taken in view of the Keppler '473 patent or any other art of record.

With regard to independent claims 8 and 17, they both also call for rearwardly inclined front and rear walls and dividers parallel to such front and rear walls and, therefore, are likewise patentably distinguishable over all of the art of record.

Claims 3-5 are dependent upon amended independent claim 1, claims 10, 11 and 13-16 are dependent upon independent claim 8, and claims 19-23 are dependent upon independent claim 17. For the reasons discussed above, and because these claims set forth additional details in terms of varying scope, Applicants respectfully submit they are also patentably distinguishable over the art of record.

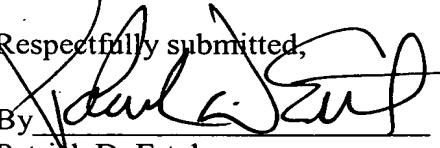
In view of all of the foregoing remarks, Applicants respectfully request prompt reconsideration and allowance of all of claims 1, 3-5, 8-11, 13-17, and 19-23.

With regard to the rejection of claims 13-16 under 35 U.S.C. §112, second paragraph, it will be noted that Applicants have amended claim 13 to render it dependent upon independent claim 8 thereby obviating this ground for rejection.

In view of all of the foregoing, Applicants respectfully submit that all of the claims remaining in this application are now in condition for allowance and, thus, Applicants respectfully solicit prompt reconsideration and issuance of a formal Notice of Allowance.

Dated: July 28, 2005

Respectfully submitted,

By 
Patrick D. Ertel

Registration No.: 26,877
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant